

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

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|----------------------|---|------------------------|
| KEVIN KERR, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Civil Action |
| |) | No. 10-3010-CV-S-GAF-H |
| ERIC HOLDER, et al., |) | |
| |) | |
| Respondent. |) | |

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition be dismissed without prejudice.

On May 13, 2010, the Federal Public Defender filed a Motion to Withdraw from the case, and the petitioner was given to June 1, 2010, in which to file exceptions to the report and recommendation. No exceptions have been filed, and the motion of the Federal Public Defender will be granted.

Petitioner has had a full and fair opportunity to challenge the Magistrate's recommended findings of fact, conclusions of law, and proposed action. Petitioner has failed to state or show any facts or legal principles that would create a genuine issue of material fact or warrant correction of

the legal principles applied by the Magistrate. No further proceedings will therefore be required in this case.

Therefore, after a de novo review of the report and recommendation and the files and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. It is therefore

ORDERED that the Federal Public Defender be, and is hereby, granted leave to withdraw as attorney of record in this case; and it is further

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis; it is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

s/ Gary A. Fenner
Gary A. Fenner, Judge
United States District Court

DATED: June 3, 2010